

Application No. 09/740,930
Reply to Office Action of July 14, 2005

Docket No.: 21736-00011-US

REMARKS

This amendment is responsive to the rejection of July 14, 2005, an accompanying request for a two-month extension of time makes this response timely.

Claims 51-102 (all of the claims then pending) were rejected under 35 USC 103. Some of the claims (51-53, 61-62, 75-77, 85-86, 99-100) were rejected solely on the Rackson reference (6,415,270). The remaining claims (54-60, 63-74, 78-84, 87-98, 101 and 102) were rejected on a combination of Rackson and Fritts.

Applicant has amended claims 51-53, 61, 63-65, 73, 75-77, 85, 87-89, 97-102 and added new claims 103-104. Whereas the claims had previously referred to an auction and a related auction, the claims now refer to a first auction and a second auction. Furthermore, the claims now specify that the first auction is directed to a first set of items and the second auction is directed to a second set of items. The claims specify that "said first set of items being different from said second set of items."

Several of the claims include a constraining step. Other claims include a constraining means. The constraining step has been amended to specify "constraining the received bids by accepting only bids which satisfy a constraint based on bids in the second auction."

Other claims include a step of assigning. Apparatus claims include assigning means. In the method claims, the assigning step has been amended to specify "eliminating each of the conditional bids which fail to satisfy any of their conditions and thereafter assigning the first set of items to bidders based on the bids in force subsequent to the eliminating of the conditional bids which fail to satisfy any of their conditions."

The application includes independent method claims 51, 63, 99 and 101 and independent system claims 75, 87, 100 and 102-104. Some of the claims specify that the first auction is conducted in association with the second auction (claims 51, 63, 75 and 87 and the claims dependent thereon). Other of the claims specify a method or apparatus for conducting a first auction and a second auction (claims 99, 100, 101 and 102-104).

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As Applicant will demonstrate, the Rackson patent bears little if any relation to the subject matter of the rejected claims. Rackson asserts that there is a problem in the auction art in that a seller is restricted to offering his goods on a single auction. Rackson's thesis is that by providing a "multi-auction service system" which provides data to different auctions and receives data from the auctions, a seller is no longer restricted to offering his goods on a single auction. Rather, the goods can be offered on several auctions; the multi-auction service system ensuring that the goods can actually only be purchased at a single one of the auctions.

Rackson accommodates a seller who might have more than a single item to auction. Rackson suggests that multiple items may be sold together or separately. Rackson continues that if the items are different but make up a set, they will probably be sold together. He continues that "alternatively the items could be auctioned separately where each item will be described for sale individually." He indicates that "one item at a time would be released to remote auction services to be auctioned" or "the items could be listed as one or more lots to be sold where multiple bidders may be allowed to bid for the quantity available."

Rackson does not describe "a method for conducting a first auction of a first set of items, said first auction conducted in association with a second auction of a second set of items, said first set of items being different from said second set of items." (claims 51-98). In addition, Rackson does not describe "a method for conducting a first auction of a first set of items and a second auction of a second set of items, said first set of items being different from said second set of items" as recited in claims 99-102.

Rackson does not describe any relation between auctions of different items. Rackson does not describe "constraining the received bids by accepting only bids which satisfy a constraint based on bids in the second auction" as recited in claims 51, and 99, and the claims dependent thereon. Related subject matter is recited in apparatus claims 75, 100, 103 and their dependent claims.

Rackson further does not describe a method of conducting an auction which includes "accepting bids from bidders for items in the first set of items, at least one of the bids from one

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of the bidders conditional on said bidder winning a complimentary item in the second auction” wherein the auction further includes the step of “eliminating each of the conditional bids which fail to satisfy any of their conditions and thereafter assigning the first set of items to bidders based on the bids in force subsequent to the eliminating of the conditional bids which failed to satisfy any of their conditions” as recited in claims 63 and 101 and the claims dependent thereon. Similar subject matter is found in apparatus claims 87 and 102 and the claims dependent thereon.

The fact that Rackson describes that a seller may have different items for sale does not reach operating two auctions where the items in the first auction are different from the items in the second auction. Moreover, although Rackson describes coordinating purchase of more than one item, he does not describe “constraining the received bids [in the first auction] by accepting only bids which satisfy a constraint based on bids in the second auction” as found in claims 51, 75, 99 and 100, and in the claims dependent thereon.

Rackson further does not describe accepting bids in the first auction where at least one of the bids is “conditional on said bidder winning a complimentary item in the second auction” and which auction includes “eliminating each of the conditional bids which fail to satisfy any of their conditions and thereafter assigning the first set of items to bidders based on the bids in force subsequent to the eliminating of the conditional bids which fail to satisfy any of their conditions” as called for in claims 63, and 101, and the claims dependent thereon. Related subject matter is recited in apparatus claims 87, 102 and 104 and their dependent claims.

Fritts is cited for allegedly describing licenses which may be complimentary. However, the Fritts disclosure has no apparent relation to the Rackson disclosure. Furthermore, Fritts does not teach the subject matter quoted above, which is missing from Rackson. Thus, because:

1. The combination of Rackson and Fritts fails to describe the claimed subject matter including

conducting a first auction, of a first set of items, which depends on a second auction of a second set of items, where the first set of items are different from the second set of items, or

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the constraining subject matter quoted above, or

the auction including conditional bids as quoted above, or

the eliminating subject matter also quoted above.

2. The justification for combining Fritts and Rackson is challenged in that the only subject matter which might be seen to connect the Rackson disclosure and the Fritts disclosure is the subject matter described in this application.

Applicant submits that for these reasons, the rejections of claims on Rackson alone under 35 USC 103 is not well-taken. Furthermore, the rejection of other claims on a combination of Rackson and Fritts is also not well-taken.

Accordingly, reconsideration and allowance of claims 51-104, all of the claims in the application, is respectfully solicited.

Applicant believes no further fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 22-0185, under Order No. 21736-00011-US from which the undersigned is authorized to draw.

Dated: _____

Respectfully submitted,

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